

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION

AMERICAN CENTRAL INSURANCE COMPANY

PLAINTIFF

VS.

CIVIL ACTION NO. 5:05-cv-143 (DCB) (JCS)

MASSEY LAND & TIMBER, LLC;  
DAVID BREWER, INC.;  
BREWER CONSTRUCTION, INC.;  
AND PEAR ORCHARD VICKSBURG, LLC

DEFENDANTS

ORDER SETTING ASIDE DEFAULT JUDGMENT

This cause is before the Court on defendant Brewer Construction, Inc.'s motion to set aside default judgment (**docket entry 38**). Having carefully considered the motion, which is unopposed, and being fully advised in the premises, the Court finds as follows:

Defendant Brewer Construction, Inc. ("Brewer Construction") was served with process on August 31, 2005. On October 21, 2005, the plaintiff filed a motion for entry of default, and default was entered on October 26, 2005. On October 21, 2005, the plaintiff also filed a motion for default judgment, and an order granting default judgment against Brewer Construction, Inc., was entered on December 14, 2005.

This is a declaratory judgment action filed by American Central Insurance Company ("American Central") against the movant and three other defendants. On December 14, 2005, an entry of default against Massey Land & Timber, LLC ("Massey") was set aside and American Central's motion for a default judgment against Massey

was denied, inasmuch as Massey had made an appearance and answered the complaint. American Central's motion for default judgment against Brewer Construction was granted because Brewer Construction had neither made an appearance nor answered the complaint. Brewer Construction has now made an appearance and seeks to set aside the default judgment against it. The declaratory relief sought against Brewer Construction is the same as that sought against the other three defendants. Inasmuch as American Central would not be prejudiced by setting aside the default, and American Central has not filed an opposition to the motion, the Court finds that Brewer Construction's motion should be granted. Accordingly,

IT IS HEREBY ORDERED that defendant Brewer Construction, Inc.'s motion to set aside default judgment **(docket entry 39)** is GRANTED;

FURTHER ORDERED that the clerk's entry of default against Brewer Construction, Inc., entered October 26, 2005, is hereby set aside; and the default judgment against Brewer Construction, Inc., entered December 14, 2005, is hereby set aside.

SO ORDERED, this the 27th day of October, 2006.

s/ David Bramlette  
UNITED STATES DISTRICT JUDGE